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December 27, 2021

VIA ECF

The Honorable Margo K. Brodie
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Courtroom 6F
Brooklyn, NY 11201

Magistrate Judge Vera M. Scanlon
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Room 1214 South
Brooklyn, NY 11201

Re: *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*,
No. 1:05-MD-1720 (MKB)(VMS)

Dear Judges Brodie and Scanlon:

Rule 23(b)(3) Co-Lead Class Counsel (“Class Counsel”) write regarding the upcoming January 5, 2022 hearing date related to Rebel Payments LLC (“Rebel” or “Company”), a third-party that has been accused of engaging in a misleading sales campaign that touches upon the settlement in this action. Certain significant information has recently come to light that we believe requires additional investigation so that the Court can have a complete record before it when it decides how or whether to enjoin and/or sanction Rebel. We here request the Court grant a short extension – no more than four weeks – at the Court’s convenience for the hearing.¹

Since the telephonic hearing on December 8, 2021, the parties have been engaged in significant informal discovery in an effort to fully understand the scope of Rebel’s marketing campaign. We have had numerous calls with Rebel’s counsel, had a lengthy and productive videoconference with Rebel’s executives and counsel, and have received some documents and other information regarding Rebel’s activities. We just learned that despite claims to the Court and Class Counsel in September that merchants who signed up with Rebel were sent a letter allowing them to cancel their contracts – this was never done. We further learned that the September representation made to the Court and Class Counsel that independent contractors working for Rebel received written notice (a sample of which was provided to the Court) to cease and desist also was not sent. This is extremely concerning and we have now received assurances from Rebel that it will send, with proof,

¹ Rebel’s counsel does not object to this request.



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letters to all affected merchants.² This will take additional time and is one reason why we are requesting an extension.

Additionally, as part of Class Counsel's investigation, we reached out to a former sales director at the Company. During a call on December 24, 2021, we learned for the first time from this person that Rebel had used the settlement in this action to market services through a large network of websites that were never disclosed to us, despite repeated requests regarding other avenues of marketing and specific questions regarding other websites. This witness provided information regarding various websites that Rebel recently attempted to take down from the internet. We were able to use the internet archive to review some of these websites, even though Rebel had tried to scour the sites from the internet following Class Counsel's contact with them. This part of the investigation has only just begun and there may be additional witnesses to speak with regarding this newly discovered information. We had a fruitful discussion with Rebel today that provided additional information regarding these other websites, but we need additional time to verify and analyze this new information.

We are working diligently on this matter, but in order to have a complete record before the Court, additional time is needed. We are available to discuss this request at any time.

Respectfully submitted,

s/ Alexandra S. Bernay

ALEXANDRA S. BERNAY

cc: All Counsel of Record via ECF

² Rebel has stated that it is also willing to contact via approved messaging all merchants who they are able to currently determine may have received misleading information during the sales campaign, beyond those merchants that entered into contracts.